

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

TRANSCRIPT OF RECORD.

COURT OF APPEALS, DISTRICT OF COLUMBIA

OCTOBER TERM, 1904.

No. 1449.

298

THE DISTRICT OF COLUMBIA, APPELLANT,

vs.

J. EDWARD CHAPMAN.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

FILED JULY 21, 1904.

Court of Appeals of the District of Columbia.

OCTOBER TERM, 1904.

No. 1449.

THE DISTRICT OF COLUMBIA, A CORPORATION,
APPELLANT,

vs.

J. EDWARD CHAPMAN.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

INDEX.

| | Original. | Print. |
|-------------------------------------|-----------|--------|
| Caption | a | I |
| Agreed statement of facts.. .. | I | I |
| Judgment and exception | 5 | 4 |
| Appeal and order for citation | 6 | 4 |
| Citation | 7 | 5 |
| Stipulation as to evidence. | 8 | 6 |
| Praecipe for transcript | 8 | 6 |
| Clerk's certificate..... | 10 | 7 |

In the Court of Appeals of the District of Columbia.

THE DISTRICT OF COLUMBIA, a Corporation,
Appellant,
vs.
J. EDWARD CHAPMAN. } No. 1449.

a Supreme Court of the District of Columbia.

J. EDWARD CHAPMAN, Plaintiff,
vs.
THE DISTRICT OF COLUMBIA, a Corporation, Defendant. } No. 46825. At Law.

UNITED STATES OF AMERICA, } ss :
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Agreed Statement of Facts.*

On appeal from a justice of the peace.

Filed Mar. 31, 1904.

In the Supreme Court of the District of Columbia.

J. EDWARD CHAPMAN, Plaintiff,
vs.
THE DISTRICT OF COLUMBIA, a Corporation, Defendant. } Law. No. 46825.

It is hereby stipulated and agreed by and between counsel for the respective parties hereto that this cause, coming on to be heard de novo by this court upon an appeal from a justice of the peace, as is by law in such cases made and provided, be, and the same may be, heard and tried upon the following stipulated and agreed statement of facts, and upon such written relative and material documentary evidence as the parties may desire to produce, in lieu of oral testimony of witnesses. The right of trial by jury being hereby waived:

First. It is agreed as aforesaid that the plaintiff in this cause, J. Edward Chapman, is engaged in the business of a wholesale and retail wood and coal dealer with place of business situated and located upon premises numbered 224 14th street N. W., in the city of Washington, District of Columbia, at which place he has conducted said business of wholesale and retail wood and coal dealer for the past fifteen years or more.

Second. That in connection with said business the plaintiff sometimes takes orders and sells both wood and coal to the United States Government 160 cords wood last year and this each and to the Municipal Government of the District of Columbia last year 4,500 tons coal, this year 6,000 tons of coal bidding on, and entering into contract with said Governments therefor, in the usual manner as is required of all who sell any materials or commodities directly to the Government.

Third. That the plaintiff has received and filled such orders for the respective Governments yearly in the course of his business as a wholesale and retail wood and coal dealer, but that the amount of such business done by the plaintiff does not exceed twenty or twenty-five per cent. of the total amount of his said business, and that said contract business with the aforesaid Governments is all of the business done by contract by the plaintiff.

Fourth. That in the month of June, 1903, or thereabouts, the plaintiff, J. Edward Chapman, was notified by the municipal authorities of the District of Columbia that he was in arrears of his license as a contractor under paragraph 46 of section 7 of an act of Congress making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes, approved July 1, 1902, commonly known as the Personal Property and License Tax Law. That the plaintiff in response thereto wrote the Commissioners under date of June 27th, 1903, asking that the matter be held up and referred to the corporation counsel for an official opinion as to whether or not the plaintiff was within the terms of "building and other contractors" of said enactment and amenable thereto, he having been taxed, and paid said tax, on his personal property such as stock in trade, fixtures, and horses and carts used in his aforesaid business.

Fifth. That in reply to this letter of the plaintiff to the Commissioners he, the plaintiff, received from Dr. William Tindall, Secretary to the Commissioners, under date of July 15, 1903, a letter informing the plaintiff that "the police

court has placed a very broad and ambiguous construction upon the term 'building and other contractors' in the act of July 1, 1902, and the Assessor's office has had considerable difficulty in determining who come within this category."

Sixth. That on the ninth day of June, 1903, an information was filed in the police court of the District of Columbia charging the plaintiff with doing business in violation of the provisions of said paragraph 46 of section 7 of the aforesaid act of Congress, in not having a license as a contractor, and that upon the same day a warrant for the plaintiff's arrest issued upon said information and was served upon the plaintiff at his place of business, 224 14th street N. W., but that the matter was not further pressed until the 10 day of September, 1903, when the plaintiff was arrested by an officer of the police force and brought into the police court to answer the charge contained in said information.

Seventh. That the only reason for said information, warrant, arrest, and prosecution of the plaintiff was his selling wood and coal in the usual course of his business to the United States and District of Columbia Governments by contract as aforesaid.

4 Eighth. That when arrested and brought before the police court for trial the plaintiff was told by the prosecuting attorney, Mr. James L. Pugh, that he would likely be fined, and was therefore given the alternative of either standing trial, running his chances of conviction and fine, or of taking out a license as a contractor under said paragraph and section of aforesaid act of Congress. That in order to avoid the publicity and notoriety of a trial in the police court the plaintiff elected to take out a license, which he did under protest, paying twenty-five dollars therefor to the proper authorities and received a license as a contractor, and the case in the police court against him was nolle prosqued.

Ninth. That thereafter, through counsel, the plaintiff requested and made a demand upon the Commissioners of the District of Columbia for a return of the twenty-five dollars so paid by him, but this request and demand was refused.

Lastly. It is hereby stipulated and agreed that neither party hereto by this stipulation or agreement waives or relinquishes any right not inconsistent herewith. It being the intention and understanding of the parties that this stipulation and agreement is entered into by them for the sole purpose of dispensing with the swearing of witnesses and their testimony in this cause (who, it is conceded, if produced and sworn would testify substantially to the

4 THE DISTRICT OF COLUMBIA VS. J. EDWARD CHAPMAN.

facts contained herein) and in order to advance the hearing of the same.

F. S. KEY SMITH,
Attorney for Plaintiff.

F. H. STEPHENS,
Attorney for Defendant.

Original.

5 Supreme Court of the District of Columbia.

TUESDAY, *June* 14, 1904.

Session resumed pursuant to adjournment, Mr. Justice Barnard, presiding.

* * * * *

| | | |
|---|---|--------------------|
| J. EDWARD CHAPMAN, Pl'ff, Ap- pellant, vs. THE DISTRICT OF COLUMBIA, Def't, Appellee. | } | At Law. No. 46825. |
|---|---|--------------------|

Now come here the plaintiff by his attorney, Mr. F. S. Key Smith, and the defendant by its attorney, Mr. Francis H. Stephens, and submit this case to the court upon agreed statement of facts, and the same having been heard, the court finds the matters of difference herein in favor of the plaintiff: Therefore it is considered that the plaintiff recover against the defendant the sum of twenty-five dollars (\$25.00), with interest thereon from the 10th day of September, 1903, being the money payable by it to the plaintiff by reason of the premises, together with his costs of suit to be taxed by the clerk, and have execution thereof.

The defendant notes an exception.

6 *Appeal and Order for Citation.*

Filed Jun- 15, 1904.

In the Supreme Court of the District of Columbia.

| | | |
|---|---|--------------------|
| J. EDWARD CHAPMAN vs. DISTRICT OF COLUMBIA. | } | At Law. No. 46825. |
|---|---|--------------------|

Now comes the defendant, by its attorneys, and notes an appeal from the judgment rendered in the above-entitled cause.

The clerk will please issue a citation on appeal to the plaintiff herein, J. Edward Chapman.

A. B. DUVALL,
F. H. STEPHENS,
Attorneys for the Defendant

7 In the Supreme Court of the District of Columbia.

| | | |
|--|---|--------------------|
| J. EDWARD CHAPMAN, Plaintiff, vs. THE DISTRICT OF COLUMBIA, Defendant. | } | At Law. No. 46825. |
|--|---|--------------------|

The President of the United States to J. Edward Chapman,
Greeting:

You are hereby cited and admonished to be and appear at a Court of Appeals of the District of Columbia, upon the docketing the cause therein, under and as directed by the rules of said court, pursuant to an appeal filed in the clerk's office of the supreme court of the District of Columbia, on the 15th day of June, 1904, wherein the District of Columbia — appellant and you are appellee, to show cause, if any there be, why the judgment rendered against the said appellant should not be corrected, and why speedy justice should not be done to the parties in that behalf.

| | |
|---|---|
| Seal Supreme Court of the District of Columbia. | Witness the Honorable Edward F. Bingham, chief justice of the supreme court of the District of Columbia, this 15th day of June, in the year of our Lord one thousand nine hundred and four. |
|---|---|

J. R. YOUNG, *Clerk*,
By FRED. C. O'CONNELL,
Asst. Clerk.

Service of the above citation accepted this 16th day of June, 1904.

F. S. KEY SMITH,
Attorney for Appellee.

[Endorsed:] No. 46825. Law. J. Edward Chapman vs. The District of Columbia. Citation. Issued June 15th, 1904. Served copy of the within citation on ————. ————, marshal. ————, attorney for appellant.

Filed Jul- 7, 1904.

In the Supreme Court of the District of Columbia.

| | | |
|-----------------------|---|--------------------|
| J. EDWARD CHAPMAN | } | At Law. No. 46825. |
| v. | | |
| DISTRICT OF COLUMBIA. | | |

It is agreed by the respective counsel for the parties hereto that there was no other or further evidence offered at the trial of the said cause than that contained in the stipulation of facts heretofore filed herein, and that the said agreed statement of facts contained all the evidence that was adduced at the trial of the said cause.

F. S. KEY SMITH,
Attorney for Plaintiff.

F. H. STEPHENS,
Attorney for Defendant.

Order for Transcript.

Filed Jul- 7, 1904.

In the Supreme Court of the District of Columbia, the 17th
Day of June, 1904.

| | | |
|-----------------------|---|--------------------|
| J. EDWARD CHAPMAN | } | At Law. No. 46825. |
| vs. | | |
| DISTRICT OF COLUMBIA. | | |

The clerk of said court will please prepare a transcript of the record for the Court of Appeals consisting of the
9 agreed statement of facts; the judgment and the exception thereto; the notice of appeal; the citation; and the stipulation as to evidence produced.

A. B. DUVALL,
F. H. STEPHENS,
Attorneys for Defendant.

10 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, }
District of Columbia, } ss:

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 9, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 46825, at law, wherein J. Edward Chapman is plaintiff and The District of Columbia is defendant, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto
Seal Supreme Court subscribe my name and affix the seal of
of the District of said court, at the city of Washington,
Columbia. in said District, this 20th day of July,
A. D. 1904.

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court.
No. 1449. The District of Columbia, appellant, vs. J.
Edward Chapman. Court of Appeals, District of Columbia.
Filed Jul- 21, 1904. Henry W. Hodges, clerk.